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III-08.01 General

These guidelines apply to all public and private utilities, including, but not limited to, electric power, communications, cable television, water, gas, oil, slurry, petroleum products, steam, sanitary sewers, wireless facilities (towers), drainage, irrigation, and similar facilities that are to be located, adjusted, or relocated within any NDDOT right of way.

The location and design of all utilities within highway right of way must conform to Chapter 23 of the Code of Federal Regulations Part 645, and the NDDOT “A Policy for the Accommodation of Utilities on State Highway Right of Way”. Subpart A of 23 CFR Part 645 relates to Utility Relocation, Adjustment and Reimbursement. The Accommodation of Utilities is in Subpart B.

III-08.02 Preliminary Survey

Seventy two (72) hours prior to starting the topography survey, the North Dakota One Call System (1-800-795-0555) should be contacted to have the underground utilities marked. Each caller will receive an ID number, and this number should be used for all future locate requests. Each utility is required to start marking the underground facilities within 72 hours. Should they be unable to be on the project within this time period, they must contact you to make other arrangements.

Be prepared to give the attendant each and every 1/4-1/4 section of land within which the survey will be conducted, along with the section, township, and range. Make sure that the attendant is given your name, title, and telephone number. The attendant will give you a request or confirmation number. Record this in the survey book.

You have the option of requesting an onsite meeting with the utilities prior to the marking of their underground facilities. This could result in reducing the time it takes to locate, mark, and survey unaffected utilities.

Be sure to record in the survey books each company, the locator’s name and telephone number, along with the dates of the locating and marking. Attempt to identify the utility name, size of facility, type of pipeline, and the type of transmittant in the pipeline.

III-08.03 Design

During the design of the project, the Utilities Engineer, or the responsible agency, will work with the designer to insure that the utilities are shown on the plans correctly and to make certain that all utilities are shown on the plans. If practicable, the design may be altered slightly to avoid relocation or adjustment of major or costly utilities without changing the scope of the project.

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Each above-ground utility that is to be relocated or lowered will be shown on the plan & profile sheets with the appropriate symbol. Plan notes will be used in those instances where the utility work must be coordinated with the contractor's operations.

III-08.04 Notification to Utility Companies

The Utilities Engineer, or the responsible agency, will notify each utility company (let20.3) of the project by sending to them the necessary plan sheets and appropriate cross section sheets. This should be done a minimum of three (3) months before the bid opening date, six (6) months is desirable, and sooner in some cases involving major facilities.

A determination must be made as to who is responsible for the costs of the relocation and adjustment work. The General Rule is "Those who have prior rights will be reimbursed for the work". An exception to this rule is contained in Sections 24-01-42 and 43 of the North Dakota Century Code, which states that any utility that is placed within one-hundred feet of an existing state highway after 1959 must relocate, adjust, or remove the facilities at the utilities' expense. NOTE: Seventy-five feet on existing county highways, which were identified as being on the FAS or CS system at the time of the utility installation. This does not apply to township or other section line roads maintained by the county. All utility work must be done according to the Utilities Accommodation Policies.

Reimbursable utility work must be covered with a signed agreement between the NDDOT and the utility company. The Utilities Engineer will send the Notification Letter (SFN 9684 or let20.16), Agreement (SFN 9681), Cost Estimate (SFN 5700), associated documents (see samples) and plans, along with any appropriate cross sections to the utilities when the design is prepared in the central office. If others are preparing the design, the plans, with cross section sheets, must be sent to the Utilities Engineer on a timely basis, as outlined above.

Any proposed Betterments that the utility company proposes to make, and any cost sharing, shall be shown on the Cost Estimate form. Betterments are improvements to the company system that are not eligible for reimbursement. Examples of this would be heavier conductor on an overhead power line to increase capacity, larger size telephone or television cable, larger pipe size, etc.

Cost sharing (let20.16) is when the Department is only partially responsible for the costs of relocation, as shown in the plans. An example of this would be when there are four (4) miles of buried cable to be relocated and one (1) mile is located on highway right of way. If the total cable is of the same size, the state would be responsible for three-fourths of the cost (3 mile divided by 4 miles), and the utility would be responsible for one-fourth of the cost (1 mile divided by 4 miles). If the cable varies in sizes, then a formula based on foot/pairs must be used

Occasionally, a utility company may not return the Agreement documents on a timely basis, then a follow-up letter (let20.12) must be sent as a reminder to return the documents

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NOTE: The Utility Relocation Agreement must have the appropriate Risk Management Appendix and Certificate of Insurance attached, along with the other required forms.

Federal Aid will be requested by the Utilities Engineer (let20.2) when it has been determined that a utility is eligible for reimbursement, as noted above. The Utilities Engineer must submit a certification letter (let20.13 or let20.14) to FHWA with the request for federal participation. When a project has no Agreements with the utility companies, a certification letter (let20.9 or let20.11) to FHWA is required stating this fact. The Utilities Engineer, or the responsible agency, is required to make this certification.

When the signed Agreement is returned to the Utilities Engineer from the utility company, the documents will be submitted to the Legal Division and NDDOT Director for final approval. When notification from FHWA is received that the utility work is approved, the Utilities Engineer will make the necessary copies and make distribution as shown on form let20.7 and the utility will be authorized to start relocation. Any relocation work done by the utility prior to the FHWA or NDDOT authorization date will not be eligible for reimbursement from the NDDOT.

III-08.05 Progressive and Final Estimates

Progressive and final estimates (SFN 2251) to the utility company will be made by the Utilities Engineer or the responsible agency. Progressive estimates may be made at any time the utility company submits a billing. Retainage in the amount of ten percent (10%) will be withheld until the final estimate payment is made. A final certification (let20.10) on the final utility costs must be made to FHWA that states that the billing was correct and that all costs were accrued due to the construction.

When the final billing is received from a utility company, the Utilities Engineer or the responsible agency will review the invoice to determine accuracy and to insure that the costs are eligible for reimbursement. The supporting documents shall be included with the final billing. These may be computer print-outs of the materials, labor, equipment, employees expenses, and miscellaneous charges. Copies of vendor vouchers should also be included with this billing.

The Project Engineer/Manager will submit the Certification Letter (let20.15) to the Utilities Engineer upon completion of the utility work.

A request for final audit (SFN 9637), along with the supporting documents and a copy of the final invoice, shall be submitted to the NDDOT Financial Management Division, Audit Section. Lump Sum Agreements and billings less than \$35,000.00 do not have to be audited. Lump Sum Agreements up to \$100,000.00 may be accepted, with the approval of the Utilities Engineer.

Any relocation work done by the utility prior to the authorization date will not be eligible for reimbursement by the NDDOT. Any part of the billing that cannot be substantiated by the utility will not be reimbursable from the NDDOT.

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The Utilities Engineer, or the responsible agency, will make the Final Estimate payment based on the audited costs identified in the Audit Report.

III-08.06 List of Sample Forms and Letters

- A. Let20.2 Request to FHWA for Federal Participation in Utility Relocation.
- B. Let20.3 Letter to Utility Company for Notification of Project where NDDOT is not liable for reimbursement.
- C. Let20.9 Certification Letter to FHWA where there are no costs. (Rural grading projects).
- D. Let20.10 Final Certification Letter to FHWA regarding Final Costs of Relocation. (Each Utility Billing must have a separate letter).
- E. Let20.11 Certification Letter to FHWA where there are no costs, but Force Account may be required for Private Service Lines. (Urban Reconstruction Projects).
- F. Let20.12 Follow-up Letter to Utility Company noting that the Agreement and supporting documents are due.
- G. Let20.13 Certification Letter to FHWA that Utility Relocation is on schedule. (Not necessary when all Relocation Agreements have been returned).
- H. Let20.15 Project Engineer/Manager Certification Letter to Utilities Engineer that Final Billing is correct.
- I. Let20.16 Project Notification Letter to Utility Company when NDDOT is not responsible for all of the costs.
- J. SFN 9684 Project Notification Letter to Utility Company when NDDOT is fully responsible for the costs.
- K. SFN 9681 Utility Relocation Agreement (2 pages), with SFN 5700 (Cost Estimate - 2 pages), SFN 10927 (Civil Rights Form), Risk Management Appendix, Insurance Certificate, Statement on Consultants, and SFN 16865 (Debarment Certification).
- L. SFN 2251 Progressive Estimate (Partial and Final Estimates).
- M. SFN 9637 Request for Final Audit.